IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPLICATION NO.5 OF 1999

The Commissioner of INcome Tax,
Mumbai City-V, Mumbai ...Applicants..

V/s.

M/s. Hindalco Industries Ltd. ...Respondents.

Dr.P.Daniel with Mr.G.Hariharan for the Appellants.
Mr.S.J.Mehta for the Respondent.

CORAM: S.RADHAKRISHNAN &
J.H.BHATIA, JJ.
DATE : 8th August, 2005.

P.C.:

1. Heard the learned counsel for the Applicants and the learned counsel for the Respondents.

2. The above Applicant, the Commissioner of Income Tax is seeking reference by this above Application under section 256(1) of the Income Tax Act with regard to the following substantial questions of law.

> "Whether on the facts and in the circumstances of the case and in law, the ITAT was justified in upholding the order of CIT (A) by allowing the claim of the assessee and cancelling the disallowance made by the A.O.

u/s.143(1)(a) read with section 154 of the Act for the assessment year 1993-94/1994-95/1995-96 ?"

3. Both the learned counsels for the Petitioner and for the Respondent fairly state that the issue raised in above is squarely covered against the Revenue and in favour of the Assessee in the judgment of Division Bench of this Court in **Khatau Junkar Ltd. And Another v. K.S.Pathania And Another (196 ITR 55) and Bank of America N.T. And S.A. v. Deputy Commissioner of Income Tax and Another (200 ITR 739)** judgment of the Supreme Court in **T.S.Balaram, Income Tax Officer, Company Circle IV, Bombay v. Volkart Brothers And Others 82 ITR 50**. Under the aforesaid facts and circumstances, we dismiss the above application.

(S.RADHAKRISHNAN,J.)

(J.H.BHATIA, J.)